

Innovative Partnership Process

Introduction:

As traffic and travel increase, so do demands for transportation improvements. Governments, planning and economic development organizations and transportation professionals simply don't have enough resources to keep up.

The Missouri Department of Transportation offers a variety of alternative financing options that make money available for transportation projects that serve a public purpose, including: highway and rail projects, transit equipment, air and water transportation facilities and elderly/handicapped vehicles.

The process to utilize these innovative funding mechanisms is described in this document, including a Dispute Resolution Process (see Appendix A) that may be utilized at any point throughout this process.

STEP 1 Concept Formation

Transportation need identified:

Frequently throughout Missouri, a wide variety of individuals and public entities are recognizing emerging transportation system demands for which there aren't sufficient state resources to build. These transportation customers come from both the public and private sectors. Political subdivisions such as counties and cities as well as metropolitan planning organizations or regional planning councils are typical public-sector need identifiers. In the private sector, developers and large commercial interests are the most common need identifiers.

They typically identify transportation needs in three general categories: the need for an improvement or an upgrade on the existing system, the need for an addition to the existing system, or the need for an accelerated schedule for an already planned project. These perceived needs are presented to the Missouri Department of Transportation (MoDOT) at various offices and locations. Most often these identified needs come from outside of MoDOT and have had very little or no state-level review.

Identify Partner(s) and/or Response Team:

Once a need has been identified, it becomes important to establish who, from both the partners and MoDOT, will be recognized as legitimate representatives or points of contact for future communications and staffing. In this process, it is critical to identify specific individuals rather than groups or agencies. This is important because everyone, from this point forward, needs to have a consistent, responsible representative, with specific contact information with whom to work.

State Lead:

For certain unique and high-profile projects, a state lead (and where appropriate a task-oriented project team) will be designated by the MoDOT Chief Engineer.

District Lead:

As a general rule, the MoDOT Response Team Lead for newly identified projects will be the District Engineer of the MoDOT district where the project is identified. When a project crosses district boundaries and is contained within two districts, the District Engineer having the largest portion of the project in his district will serve as the Response Team Lead. When a project involves more than two districts, the Chief Engineer will assign the Response Team Lead. If the scope of the project is later estimated to cost less than \$40 million, the District Engineer may delegate the Response Team Lead role to his representative (i.e., assistant district engineer, area engineer, transportation planning manager, etc.).

External Lead:

When a group or agency external to MoDOT recognizes a need; an important part of that initial need identification process is the selection of a primary, individual lead who represents the group or agency. This sole point of contact will serve as a responsible person to communicate the needs, desires and resources of the group or agency. This External Lead will organize their contingent of Response Team Members. It is imperative that this lead be knowledgeable and accessible, with the authority to speak on behalf of a potential external partner.

District Lead call for appropriate team and shares information:

Upon the identification of a transportation system need and the naming of a District Lead and an External Lead, the District Lead will convene the Response Team in a Core Team fact-finding format meeting. The purpose of this meeting is determine a list of assumptions needed to move the process to a point that a determination can be made that the project is or is not a benefit to the state transportation system. Assumptions in such key areas as financial demands, available resources and feasibility; public sentiment surrounding the proposed project; the timing and other resources required for the proposed project and an overall view of the proposed project's viability.

Meeting should be within one month of original contact.

Is the Project a Benefit to the State Transportation System?

After identifying a transportation need, selecting both an internal and an external lead and conducting a Core Team style fact finding meeting to determine critical assumptions surrounding the proposed project, MoDOT needs to make a determination of whether or not a project is a benefit to the state transportation system. This step is a MoDOT exclusive process, due to the fact that only MoDOT has the legitimate authority to make this judgment. All appropriate potential partner input should have been received at this point in the process.

Option 1 The project has been identified on the current STIP and TIP (in TMA areas). The project may proceed with Step 2.

Will immediately advance to Step 2 and project sponsor notified.

Option 2 The District Engineer or delegate has identified the need as being a benefit to the state system, although it is not yet on the STIP/TIP. The project may advance to Step 2.

Will immediately advance to Step 2 and project sponsor notified.

Option 3 The District Engineer or delegate cannot determine if the project is a benefit to the state system. The project sponsor will assume responsibility for the cost of traffic or other studies so that it can be determined if a benefit to the state system exists. If the project is determined to be a benefit to the state system then the project can proceed with Step 2. If the project is not a benefit to the state system, and the project sponsor assumes the entire cost and project responsibility, then the project can proceed to the PERMIT process. If the permit process is completed and detriments to the system are non-existent or mitigated, the project may proceed to Step 2, or continue w/out MoDOT participation.

Within two weeks, MoDOT will respond back to the project sponsor that more information is necessary to justify the project's benefit to the state transportation system. After receiving the additional information (i.e.: traffic study, economic benefit study, etc.) two weeks will be granted for MoDOT to review the additional information and respond back to the project sponsor on what, if any, additional steps need to be taken.

STEP 2

Scope Cost Decision Point/Document Assumptions

Memorandum of Understanding

To move from a concept addressing a need to project scope requires preparation of a preliminary plan, schedule and estimate. To accomplish these tasks and investigate innovative financing, both project planning and financial feasibility must be explored.

A *Memorandum of Understanding* is useful to document who will be responsible for individual tasks, schedules, division of costs and scheduling regular meetings to discuss progress.

Below are listed some of the types of issues that should be addressed.

The goal should be to have a Memorandum of Understanding executed by the city within two months, and executed by the MHTC the following month. The MOU will then spell out the schedule and tasks necessary to have the project proceed to IFSC approval.

Planning:

Projects on the state highway system must meet MoDOT's design standards and are subject to the same approval process as projects fully funded by MoDOT and FHWA. Determining the scope is an important step in developing what will be included in a project, the schedule for completion and the cost. The deliverables of the scoping process are:

- **Environmental Screening**

Early on, a preliminary investigation of historical, environmental, archaeological and social impacts within the project area should be conducted. This initial screening will determine what additional environmental work is necessary, and what level of scrutiny – Categorical Exclusion (CE), Environmental Assessment (EA) or Environmental Impact Statement (EIS).

The CE, EA and EIS are detailed documents, in accordance with the National Environmental Policy Act, that describe the proposed project and its purpose and need, the existing natural, man-made, social and economic environments, and the project's known and anticipated impacts on those environments. This includes items such as the effect on streams, wetlands, wildlife, land use, noise, historic properties, public lands, etc. Also included is an analysis of alternatives that might avoid some or all of the adverse environmental effects and of measures that minimize unavoidable impact. The document also details how the public and other agencies were involved in the decision-making process.

- **Traffic Study**

A traffic study considers current and projected traffic counts, along with analysis of travel patterns. Recommendations for changes are modeled and impact on levels of service are predicted with letter designations of A through F – “A” being the best and “F” the worst.

- Level of Service (A): represents free flow
- Level of Service (B-C): is generally considered adequate
- Level of Service (D): appreciable delays

- Level of Service (E): ready for breakdown at any moment
- Level of Service (F): representing total breakdown

[It should be noted that acceptable levels of service are different in urban and rural areas due to driver expectations associated with higher traffic volumes.]

- **Conceptual Plans.**

Plans showing reasonably expected right of way, grading, drainage, structures, pavement and traffic control to accurately reflect the project.

- **Preliminary Cost/Schedule**

Preliminary estimates and schedules can be derived from the Conceptual Plans.

As the project scope and cost estimates come into focus, the Partnership Development team must examine the project's financial feasibility and the various ways that it may be funded. This phase includes looking at the programs that are currently administered or overseen by MoDOT as well as any unique financing that can be used to provide a means to quickly and cost effectively fund the project. This can include "practical financing" considerations which can bring additional value to the total funding package.

Practical financing options include, but are not limited to, the following:

- **Donated Services** – the donation of services such as design or maintenance work.
- **Donated Right of Way** – the donation of land needed to construct the project, which can be included in an applicant's share of project costs.
- **Trade Land** – trading land with MoDOT.
- **Taking over a MoDOT Road** – Taking over the ownership and responsibility for future maintenance of a MoDOT road and having an agreed-upon amount credited towards local responsibility in a cost-share project.
- **Privatization** – selling or leasing to private entity.
- **Private-Public Partnerships** – a contractual agreement between MoDOT and a private, for-profit entity for developing a transportation project.
- **Unsolicited Conceptual Proposals** – RFP submitted without solicitation for transportation projects.
- **Special Experimental Project 15** – modified FHWA requirements.
- **Tolling** – assigning a user fee to access a road or bridge.
- **Other Innovative Ideas** – any other means to facilitate or effectively fund a project.

Financing options look at the actual means of funding the project. These options include, but are not limited to, the following:

- **Transportation Development Districts** – temporary, local, political subdivision that can be authorized by a vote of the public or all owners of real property affected by the district to plan, develop, finance and levy taxes for a particular transportation project.
- **Transportation Corporations** – specialized, temporary, private, not-for-profit corporations that can be organized to plan, develop and finance a particular transportation project.
- **Cost-Share Program** – MoDOT committing to a portion of the project cost for projects not on MoDOT's five-year Statewide Transportation Improvement Program (STIP) but which benefit the state system.
- **Economic Development Program** – a method of funding projects that have an economic benefit to a given area.
- **MTFC** – borrowing funds for a transportation project.
- **STAR Fund** – borrowing funds for a multi-modal project.
- **TIFIA** – borrowing funds from the FHWA to fund a transportation project.
- **Other Debt Financing** – this would all other means of incurring debt to be repaid by the borrowing entity. Private Activity Bonds, General Obligation Bonds and Bank Loans, for example, fall into this category.

As decisions are made on which means of funding will be used for the project the appropriate steps to complete that portion of financing will begin. All assumptions will be compiled and the IF team will develop a financing plan based on this information. As assumptions change the plan will be updated to show these changes and how it affects the financial feasibility of the project.

STEP 3

Application Process

In Step 3, all reports, forms and letters are completed, assembled and submitted in order to complete the application process for project funding.

One hard copy and one soft copy of the Application Packet should be submitted to the District Engineer and the Partnership Group at partner@modot.mo.gov. It is recommended that applicants study this application before completing theirs to ensure documents are properly formatted and presented.

Your complete application packet should include:

- 1) Completed application form
- 2) Engineering Studies
- 3) Environmental Studies
- 4) Traffic Studies
- 5) Public Consent summary
- 6) Financial feasibility and Funding Plan

The schedule in the MOU should indicate when the application will be complete and submitted to the DE. It should take into account that the IFSC meets quarterly and the application should be submitted three weeks prior to the IFSC meeting for review.

The application form should be completed and submitted in conjunction with the local MoDOT district office and local planning agency (MPO and/or RPC), and should include a letter of support from applicable partners, including all entities listed above. For projects presented through the Missouri Department of Economic Development, a letter of support and DED-completed analysis of the proposed project are also required.

STEP 4

Total Project Commitment

The following Steps outline what can be expected as an application is processed, as well as what steps will need to be taken to ensure appropriate elections and agreements are completed.

A) Innovative Finance Steering Committee – Each application will be reviewed by MoDOT's IFSC. Committee members are MoDOT's Chief Engineer, Director of Program Delivery and Chief Financial and Administrative Officer. The IFSC meets quarterly to review cost-share and economic development applications. All other partnership development programs are considered on an as-needed basis. Factors considered during this review include:

- Completeness of Application
- Relevance to State System
- Relevance to local, regional and statewide development
- Return to state based on investment
- Commitment of private and public partners to the project

B) Major project prioritization through the Planning Framework

- Only for Cost-Share Projects over \$40,000,000

C) Election – If a local election is required to initiate certain types of financing, it should be coordinated through MoDOT's Partnership Development manager and the applicant's local/county clerk.

D) Loan Approval – For the following types of projects, loan approval is required as follows:

- MTFC (MTFC board approval)
- STAR (MHTC approval)
- TIFIA (FHWA approval)

Application and letter of intent for these loans should be submitted to MoDOT's District Engineer.

E) Agreements – After needed elections and/or loan approval stages, the information that has been presented is collapsed into a formal agreement to be signed by authorizing parties. These agreements are considered to be Practical Finance Agreements and Formal Finance Agreements.

Practical Finance agreements are between appropriate parties and include activities such as:

- Road trades and relinquishments
- Utility agreements
- Donating ROW
- Concessions
- etc.

Formal Finance Agreements include:

- Loans

- Cooperative
- Cost share
- TIFIA
- etc.

Once a project wins IFSC approval and practical and/or formal agreements are signed, the next step is a presentation of the final application packet and all signed agreements to the Missouri Highways and Transportation Commission at its monthly meeting. This presentation will be facilitated by the District Engineer, who will review each packet to guarantee that it is complete, submit it to the MHTC and have the presentation added to the meeting agenda, and coordinate presentation of the information before the Commission.

Once approved by the IFSC, the project goes through the normal project delivery process and is placed on the STIP/TIP

Appendix A

Dispute Resolution Process

The Dispute Resolution Process provides MoDOT's transportation partners with guidance on how to resolve project disputes, and may be used at any point while pursuing innovative financing for a transportation project. As developed, the process has five basic principles:

- Resolve disputes at the lowest level possible.
- Resolve any dispute in a timely manner.
- Disputes are a professional, not a personal matter.
- All parties must agree to the spirit of the Dispute Resolution framework.
- "The decision of the judges is final."

The transportation partner will need to discuss the issue with the District Engineer, and provide the District Engineer with the necessary documentation supporting their concerns. This may include a cost estimate of items, traffic study showing projected traffic congestions or maintenance cost of the existing facility compared to the proposed improvements. The District Engineer will send a letter to the transportation partner explaining the decision made. Every effort will be made to solve the dispute at this level.

If the dispute cannot be resolved, the District Engineer will set a meeting for the transportation partner to discuss the issue with the Director of Program Delivery. For this meeting, the transportation partner will need to provide all necessary documentation supporting their concerns. This may include a cost estimate of items, traffic study showing projected traffic congestions or maintenance cost of the existing facility compared to the proposed improvements, or any other documentation that supports their claim. Within two weeks of the meeting, the District Engineer will send a letter to the transportation partner explaining the decision made by the Director of Program Delivery or advising that more time will be needed.

If the dispute is not resolved at this level, the District Engineer will set a meeting for the transportation partner to discuss the issue with the Innovative Finance Steering Committee. The Innovative Finance Steering Committee consists of the Chief Engineer, Chief Financial/Administrative Officer and Director of Program Delivery. Again the transportation partner will need to provide the necessary documentation supporting their concerns as noted above. Within two weeks of this meeting, the District Engineer will send a letter to the transportation partner explaining the decision made by the Innovative Finance Steering Committee. This decision will be final.